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Corrective Actions
Federal Facilities

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DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138
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December 7, 2001

E. Frank Di Sanza, Director
Waste Management Division
National Nuclear Security Administration
Nevada Operations Office
P.O. Box 98518
Las Vegas, NV 89193-8518

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Delay for Shipping Transuranic (TRU) Waste to the Waste Isolation Pilot Plant (WIPP)

Dear Mr. Di Sanza:

The Nevada Division of Environmental Protection (NDEP) has reviewed the referenced letter, dated November 7, 2001. The National Nuclear Security Administration Nevada Operations Office (NNSA/NV) raises two issues that need to be addressed. Additionally, NNSA/NV needs to make sure that the Las Vegas Bureau of Federal Facilities Supervisor is copied on all correspondence.

The first issue raised in the letter is the Deadline to commence shipments of Mixed TRU waste to WIPP. The letter states that the NDEP established January 1, 2001 as the Deadline. The Deadline is January 1, 2002. The NNSA/NV has indicated in this letter, as well as in the Federal Facility Compliance Act (FFCA) quarterly meeting in November, that this Deadline would most likely not be met. This Deadline was established based on information provided in an April 13, 2000 letter by the Department of Energy, Nevada Operations Office (DOE/NV). The NDEP is open to re-negotiation of the present Deadlines in light of recent events and the subsequent delay in certification of NNSA/NV's characterization program to meet the WIPP Waste Acceptance Criteria (WAC) by the WIPP contractor.

Note: This letter is for electronic distribution. The original signed letter is on file at the address shown on the letterhead.

The NNSA/NV needs to provide a schedule for obtaining WIPP certification of their characterization program, completion of the various phases of characterization and proposed initiation of shipment(s). February 1, 2002 is established as the Deadline for submittal of this information.

The second issue raised is the conclusion by the Department of Energy that schedules for TRU waste shipments in Site Treatment Plans are not enforceable. Under the provisions of the Nevada Revised Statutes, the Nevada Administrative Code, the Resource Conservation and Recovery Act, the FFCAct and the June 1992 Settlement Agreement, the NDEP has the authority to establish and enforce FFCAct Consent Order (CO) deadlines for characterization and shipment of Mixed TRU waste currently stored on the Nevada Test Site. Additionally, the procedures to appeal Consent Order Determinations and Deadlines, which could result in the assessment of stipulated penalties pursuant to Part XV of the FFCAct CO, are delineated in Part XVI of the FFCAct CO.

Any questions may be directed to me at (775) 687-4670, extension 3039.

Sincerely,

Paul J. Liebendorfer, P.E.
Chief
Bureau of Federal Facilities

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